

DOVER PLANNING BOARD

Meeting Minutes

7:00 PM

February 28, 2022

Held Remotely Via Zoom

Members Present: Carol Lisbon, Jody Shue, George Sidgwick, and Scott Freedman

Members Absent: Bill Motley

Others Participating: Land Use Director Courtney Starling, Planning Assistant Sue Hall, and Dan Gordon, Dan Gordon Landscape Architects, Dave and Samantha Adams, 62 Strawberry Hill Street

Opening: Chair Carol Lisbon, called the meeting to order at 7:03 PM. She read the guidance issued by Governor Baker regarding the Open Meeting Law and remote participation.

I. Regular Business:

a. Approval of Minutes for January 10, 2022

Ms. Shue made a motion to approve the minutes for January 10, 2022, as amended; the motion was seconded by Mr. Sidgwick and passed by a voice vote of 4-0.

b. Approval of Minutes for January 24, 2022

Ms. Shue made a motion to approve the minutes for January 24, 2022, as amended; the motion was seconded by Mr. Freedman and passed by a voice vote of 4-0.

c. Approval of Minutes for February 7, 2022

Mr. Sidgwick made a motion to approve the minutes for February 7, 2022, as amended; the motion was seconded by Mr. Freedman and passed by a voice vote of 4-0.

II. New/Special Business:

a. 62 Strawberry Hill Street, Site Plan Review

Present was Dan Gordon, Dan Gordon Landscape Architects, Property owners Dave and Samantha Adams. The applicant, Split Rock Realty Trust, c/o Melinda Tuffy proposes to construct a swimming pool with paving stones around the pool area, pool enclosure fencing and gates, landscape lighting, and planting around the foundation of the residence and around the pool area. The pool will require an upgrade to the septic system, and as it is located within a wetland buffer, it also required approval from the Conservation Commission.

Materials Submitted:

- (1) Application for Site Plan Review received on February 2, 2022;
- (2) A project narrative by Chris Rucinski, of Dan Gordon Landscape Architects, dated February 2, 2022;
- (3) A landscape plan by Dan Gordon Landscape Architects, last dated February 2, 2022; and
- (4) A site plan by Eaglebrook Engineering and Surveying, stamped and signed by Michael J. Juliano, and last dated February 28, 2022.

Ms. Lisbon made a motion to approve the Preliminary Site Plan application including the Landscape Plan by Dan Gordon Landscape Architects, last dated 2/2/22, subject to the following conditions:

1. **Prior to the issuance of a building permit, the applicant shall submit a site plan certified by a registered engineer or land surveyor to the Land Use Director. [The applicants submitted a Site Plan on 2/28/22, which is attached to this approval.]**
2. **Prior to the issuance of a building permit, minor modifications to the site plan may be approved administratively by the Land Use Director.**
3. **No exterior landscape lighting serving the pool shall cast onto neighboring properties.**
4. **The pool shall be filled by water truck.**

The motion was seconded by Mr. Sidgwick and passed by a voice vote of 4-0

b. Discussion RE: Draft Compliance Guidelines for Housing Choice Multi-family Housing

Ms. Starling stated on December 15, 2021, the Department of Housing and Community Development (DHCD) issued “DRAFT Compliance Guidelines for Multi-family Districts Under Section 3A of the Zoning Act”, intended to implement Chapter 40A, §3A, enacted as part of the Housing Choice legislation, Chapter 358 of the Acts of 2020. Section 3A requires each MBTA community, which includes Dover, to provide at least one zoning district of “reasonable size” that allows multi-family housing by right, and complies with certain other requirements, including a minimum gross density of 15 units per acre. Reasonable Size is defined as 50 acres. If the Town does not comply, it will not be eligible for Housing Choice, Local Capital Projects Fund, or MassWorks grants.

Comments to DHCD must be submitted by March 31, 2022. The Town must hold a briefing on the Draft Guidelines and submit to the MBTA Community Information Form by May 2, 2022 in order to be eligible for the three funding programs for the current year’s funding round. To remain in compliance one of the following must be done by December 31, 2022:

- Submit a complete request for determination of compliance; or
- Submit a proposed action plan as provided for in the Draft Guidelines.

Ms. Starling informed the Board that DHCD will provide assistance for the briefing regarding the Draft Guidelines.

A multi-family zoning district must comply with the following in order to be in compliance:

- Multi-family housing must be allowed as of right, meaning that no discretionary permit, such as a special permit, is required. Site plan review may be required, but cannot be used to deny a project, or impose conditions that make multi-family housing impractical.
- A multi-family district must be of “reasonable size and meet the minimum multi-family district capacity. An estimate of how many units could be constructed on each parcel of developable land within the district, based on factors such as the developable land, zoning requirements including height and setback limits, wetlands, the availability of town water and sewer, and other development restrictions needs to be calculated. DHCD may provide assistance with how to complete this calculation.
- The multi-family district may be an overlay district, and may include more than one area, but at least one portion of the overlay district must include at least 25 contiguous acres of land, and no portion of the district that is less than 5 acres will be counted toward the minimum 50 acre requirement.

- The multi-family district must be without age restrictions and may not place restrictions on the size of the units, such as the number or size of bedrooms, or the number of occupants.
- Because Dover does not have land within .5 miles of a transit station, the multi-family district should, if feasible, be located in an area with reasonable access to a transit station, or consistent with the state's sustainable development principles, such as near a downtown or village center.

There are detailed provisions in the Draft Guidelines for submitting information to DHDC on the multifamily housing district once it has been enacted, in order to obtain a determination that the Town is in compliance. If the Town is of the opinion that they will not be able to enact compliant zoning by the end of 2022, an action plan and timeline can be submitted to DHCD and request that the Town be found to be in interim compliance. Detailed provisions are in the Draft Guidelines as to what is needed for an action plan.

Ms. Starling will advise the Board of Selectmen to consider reaching out to other towns in the area that will also be impacted by these requirements, and exploring the possibility of joining with other towns to submit joint comments. Please note that the required minimum density of 15 units per acre is imposed by the legislation, so that cannot be changed by DHCD in the guidelines. A number of provisions in the Draft Guidelines, could possibly warrant a response, such as the following:

- The definition of "reasonable size" as requiring a minimum of 50 acres of land. A buildout of 750 units, even over time, in a community with 2,130 housing units will represent significant growth in a community of Dover's size (pop. 6,044).
- The requirements for determining the amount of developable land in the district. "Developable land" means land on which multi-family housing units have been or can be permitted and constructed. Developable land shall not include land under water, wetland resource areas, areas lacking adequate water or wastewater infrastructure or capacity, publicly owned land that is dedicated to existing public uses, or privately owned land encumbered by any kind of use restriction that prohibits residential use. For Dover, it is unclear whether or not any land would qualify as "developable" under this definition due to inadequate water and wastewater capacity that exists throughout the entire community.
- Consideration of the impacts on infrastructure, including public water and sewer capacity and facilities; public ways; stormwater management; emergency services; groundwater and wetlands; and other public facilities. Dover is completely dependent on groundwater supplies, has limited stormwater infrastructure, significant wetlands, and no sewer capacity.

Under its present conditions, there are few options to grow responsibly and it will take more than a matter of months for the Town to be able to comply with this legislation. Dover has unique challenges with respect to the improving infrastructure related to low density and low population – the existing water system serves only 30% of the town, which ends up being an extremely small customer base to fund the operational and maintenance needs of a water system.

- There is no definition of “sustainable development principles”, although communities not located within .5 miles of a transit station are expected to comply with this term.
- The statement that DHCD may, in its discretion, take noncompliance into account for other discretionary grant awards. The denial of infrastructure funding will make it more difficult for Dover to meet its regional housing obligations, without providing a reasonable avenue for compliance.
- Whether the requirements of chapter 40A, §3 constitute an unfunded mandate in violation of Proposition 2 ½.
- Other items may be brought forward through discussions and additional information from DHCD.

Towns similar to Dover are targeted because of the proximity to Boston and regional transportation resources, but do not provide their fair share of housing for the region.

The Town has several options, or combinations of options moving forward. After review and discussion of Ms. Starling’s recommendations, the Planning Board supported her approach.

Adjournment:

At 8:55 PM Ms. Lisbon made a motion to adjourn; the motion was seconded by Mr. Freedman. The motion passed by a voice vote of 5-0.